IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

Crl.MC.No. 576 of 2007()

ST.3877/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD
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PETITIONER:

BIJOY VARGHESE, S/O.A.R. VARGHESE,
AGED 32 YEARS, C/O.ALAPPATT DIESLS INDIA,
CAPITAL TOWERS, PATTURAKKAL, THRISSUR.

BY ADV. SRI.K.A.SREEJITH

RESPONDENTS:

STATE OF KERALA, REPRESENTED
BY THE PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.576 of 2007

Dated this the 2nd day of March, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I Act. The case was initiated as early as in 2004. The case was assigned number S.T.No.3877 of 2004. According to the petitioner, he did not receive any summons or notice from the court. He was blissfully unaware of the proceedings initiated against him before the Magistrate. The learned Magistrate has now transferred the case to the list of Long Pending Cases. A non bailable warrant of arrest has been issued and other coercive processes have been initiated against the petitioner. The petitioner finds himself in the unenviable predicament of all these coercive processes issued by the learned Magistrate chasing him.

2. The petitioner submits that he is willing to surrender before the learned Magistrate and apply for bail, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He has therefore come to this Court with a prayer that directions under Section 482 Cr.P.C may be issued to the learned Magistrate to release him on bail on the date of his appearance itself.

3. I find no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-